

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 8001

BILL NUMBER: SB 558

DATE PREPARED: Jan 20, 2001

BILL AMENDED:

SUBJECT: Net Operating Losses of High Technology Companies.

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FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: This bill allows certain qualified high technology businesses to sell unused net operating loss carryover to another taxpayer. The bill provides that income from the sale of the net operating loss carryover is not subject to the adjusted gross income tax. The bill provides that the total amount of unused net operating losses that may be sold by a taxpayer annually may not exceed \$500,000.

Effective Date: January 1, 2002.

Explanation of State Expenditures: The Department of State Revenue (DOR) is required to adopt rules concerning the procedures and criteria for approving the applications filed by a qualified business. DOR will have additional expenses related to approval of these sales. These expenses will be covered under the Department's existing budget.

Explanation of State Revenues: This bill allows certain qualified high technology businesses to sell up to \$500,000 of net operating losses (NOL) to another taxpayer, subject to the approval of DOR. The amount of NOL must be at least 75% of the dollar value of the net operating loss carryover. The buyer of the NOL must claim it in the year that the sale is approved by DOR. This provision shifts the revenue impact of this operating loss to the present versus deferring the tax impact to future tax years. Under current federal and state statutes, NOLs generally can be carried back to the two years preceding the loss year and then carried forward up to 20 years following the loss year.

The bill also provides that the income generated from the sale of the NOL is not subject to adjusted gross income (AGI) tax and, if applicable, the supplemental net income tax (SNIT). Due to the restrictions on the type of company which may utilize this provision and the limitation on the amount of NOL which may be sold to acquire capital, the fiscal impact of this provision is expected to be minimal.

The bill defines a qualified high technology business as having met the following conditions as determined

on their financial statements:

- 1) demonstrated positive net income in any of the two previous full years of ongoing operations;
- 2) demonstrated a ratio in excess of 110% of operating revenues divided by operating expenses in any of the two previous full years of operations; or
- 3) at least 50% owned, directly or indirectly, by another corporation that has demonstrated positive net income in any of the two previous full years of operation.

This provision applies to tax years beginning January 1, 2002, and could shift the tax impact beginning in FY 2003. Individual and corporate income taxes are deposited in the General Fund and the Property Tax Replacement Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: The Department of State Revenue.

Local Agencies Affected:

Information Sources: